



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 16, 1998

Mr. John Steiner
Division Chief
City of Austin
Law Department
P.O. Box 1546
Austin, Texas 78767-1546

OR98-1457

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 116800.

The City of Austin Police Department (the "department") received a request for information relating to offense report number 88-8087. You contend that the requested information is excepted from disclosure pursuant to sections 552.101 and 552.108 of the Government Code.

First, we note that the submitted documents include an autopsy report. Autopsy reports prepared by a medical examiner are expressly made public by the Code of Criminal Procedure. Code Crim. Proc. art. 49.25, § 11. Therefore, you must release the autopsy report to the requestor. Furthermore, the documents include a search warrant and a supporting affidavit. If the search warrant has been executed, then the search warrant affidavit is made public by article 18.01(b) of the Code of Criminal Procedure.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

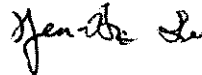
(1) a report of alleged or suspected abuse or neglect [of a child] made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

The information at issue resulted from an investigation of abuse and murder of a child. We are not aware of any rules promulgated by the department which permit the dissemination of this type of information. Accordingly, except for the autopsy report and search warrant affidavit, the submitted information is made confidential by section 261.201 of the Family Code and must be withheld from disclosure under section 552.101 of the Government Code. See Open Records Decision No. 440 (1986) (applying former Fam. Code § 34.08).

Because section 261.201 of the Family Code is dispositive, we need not address your other arguments against public disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/rho

Ref: ID# 116800

Enclosure: Submitted documents

cc: Ms. Wendy L. Sandow
1035 Spaight Street, Apt. 6
Madison, Wisconsin 53703
(w/o enclosures)